

Lawrence B. Hunt, OSB No. 751871
lbh@huntpc.com
Charles A. Ford, OSB No. 912717
ford@huntpc.com
Michael Litvin, OSB No. 111211
litvin@huntpc.com
HUNT & ASSOCIATES, PC
101 SW Main Street, Suite 805
Portland, OR 97204
(503) 226-1162 phone
(503) 223-5442 fax

Of Attorneys for Defendant

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

COLETTE WAIT, an individual,

Plaintiff,

v.

SERVPLUS, LLC, an Oregon
company,

Defendant.

Case No.

(Clackamas County Circuit Court
Case No. 17CV21395)

**NOTICE OF REMOVAL OF
ACTION UNDER 28 USC §§1331,
1441(a), AND 1367(a)**

TO: THE CLERK OF THE ABOVE-ENTITLED COURT

AND TO: PLAINTIFF COLETTE WAIT

PLEASE TAKE NOTICE THAT pursuant to 28 USC §§1331, 1441(a), and 1367(a), Defendant ServPlus, LLC, an Oregon limited liability company, hereby removes to this Court the case now pending in Clackamas County Circuit Court as *Colette Wait v. ServPlus, LLC*, Case No. 16CV42336. ServPlus, LLC is the sole Defendant and hereby gives this notice of removal.

///

As grounds for removal, Defendant ServPlus, LLC states as follows:

1. On December 23, 2016, Plaintiff Colette Wait filed a complaint in this action now pending in Clackamas County Circuit Court as *Colette Wait v. ServPlus, LLC*, Case No. 16CV42336.

2. Pursuant to 28 USC §1446(a), all process, pleadings, and orders served on Defendant at the time of removal are attached as follows: Plaintiff's Complaint is attached as Exhibit 1 (the "Complaint"); Plaintiff's Proof of Service is attached as Exhibit 2; Plaintiff's First Amended Complaint is attached as Exhibit 3 (the "First Amended Complaint"); Defendant's Answer to Plaintiff's First Amended Complaint is attached as Exhibit 4; the parties' Stipulated Protective Order is attached as Exhibit 5; the Order Granting Plaintiff's Motion for Leave to Amend Complaint Under ORCP 23 is attached as Exhibit 6; and, the Plaintiff's Second Amended Complaint is attached as Exhibit 7 (the "Second Amended Complaint").

3. This Notice of Removal is timely filed under 28 USC §1446(b)(3) because the case started by the Complaint and the First Amended Complaint was not removable to a district court of the United States, and this Notice of Removal is hereby filed within 30 days after receipt by the Defendant, through service or otherwise, of a copy of the Second Amended Complaint from which it could first be ascertained that this case is one which has become removable.

4. No further proceedings have been had in the Circuit Court of Clackamas County, Oregon as of the date of filing of this removal.

5. This is a civil action over which this court has original jurisdiction pursuant to 28 USC §1331. This action may be removed pursuant to 28 USC §1446 because the Second Amended Complaint states claims for relief under the federal laws of the United States pertaining to unlawful employment actions (collectively, the "Federal Claims"). The Federal

Claims consist of a retaliation claim under 42 USC §20003-3(a), a hostile work environment claim based on disability and gender arising under 42 USC §2000e-2(a), and a hostile work environment claim based on disability under 42 USC §12112. Second Amended Complaint, ¶¶37-38, 46-47, 52-53.

6. Supplemental jurisdiction exists under 28 USC §1367(a) with respect to the state law claim made in the Second Amended Complaint (the “State Claim”) because the State Claim is so related to the Federal Claims that it forms a part of the same case or controversy under Article III of the United States Constitution. The State Claim is a single tort claim for intentional infliction of emotional distress arising under Oregon common law based on the same alleged background facts underlying the Federal Claims. Second Amended Complaint, ¶¶59-60. There are no compelling reasons for this Court to decline to exercise supplemental jurisdiction with respect to the State Claim because the State Claim does not raise any novel or complex issues of state law, and does not substantially predominate over the Federal Claims.

7. Pursuant to 28 USC §§1441 and 1446, removal of the above captioned state court action to this court is appropriate.

8. Pursuant to 28 USC §1441(a), removal is made to this Court as the district and division embracing the place where the state action is pending.

9. Defendant is providing to Plaintiff, through its lawyer, written notice of the filing of this Notice of Removal. Furthermore, Defendant is filing a copy of this Notice of Removal with the Clerk of the Circuit Court of Clackamas County, Oregon, where the action is currently pending.

10. By filing this Notice of Removal of Action, Defendant does not waive, and expressly reserves, any and all defenses, affirmative defenses and counterclaims that may be

available to it.

WHEREFORE, Defendant removes the above captioned action now pending against it in the Circuit Court of the State of Oregon for the County of Clackamas to this United States District Court for the District of Oregon.

DATED this 6th day of October, 2017.

HUNT & ASSOCIATES, PC

s/ Lawrence B. Hunt

Lawrence B. Hunt, OSB No. 751871

101 SW Main Street, Ste. 805

Portland, OR 97204

Telephone: (503) 226-1162

Facsimile: (503) 223-5442

lbh@huntpc.com

Of Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing **NOTICE OF REMOVAL OF ACTION UNDER 28 USC §§1331, 1441(a), AND 1367(a)** on the following named person(s) on the date indicated below by:

- ☒ mailing with postage prepaid
- ☐ hand delivery
- ☐ facsimile transmission
- ☐ overnight delivery
- ☒ email

to said person(s) a true copy thereof, contained in a sealed envelope if by mail, addressed to said person(s) at his or her last known address(es) indicated below:

Rebecca Cambreleng
Cambreleng Law LLC
806 SW Broadway #1200
Portland, OR 97205
rebecca@cambrelenglaw.com

DATED: October 6, 2017

HUNT & ASSOCIATES, PC

s/ *Lawrence B. Hunt*
Lawrence B. Hunt, OSB No. 751871
101 SW Main Street, Ste. 805
Portland, OR 97204
Telephone: (503) 226-1162
Facsimile: (503) 223-5442
lbh@huntpc.com
Of Attorneys for Defendant